

**CERTIFIED FOR PARTIAL PUBLICATION**  
**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**  
**FOURTH APPELLATE DISTRICT**  
**DIVISION TWO**

THE PEOPLE,

Plaintiff and Respondent,

v.

ANTONIO PEREZ LOPEZ,

Defendant and Appellant.

E037066

(Super.Ct.No. CR62544)

**ORDER DENYING PETITION  
FOR REHEARING AND  
MODIFYING OPINION  
[NO CHANGE IN JUDGMENT]**

Appellant Antonio Perez Lopez's petition for rehearing is denied. The opinion filed in this matter on March 23, 2006, is modified as follows:

On page 23, at the end of the first partial paragraph, immediately following the closing parenthesis of the citation (*Bones*, at p. 1016.), add footnote 4 as follows:

<sup>4</sup> In a petition for rehearing, defendant asserts that "*Bones* [*sic*] and *Burnick*'s apparent construction of Welfare and Institutions Code, section 5303 is not controlling here because the pertinent language in Welfare and Institution [*sic*] Code, section 5303 is *substantially different* from the constitutional provision in section 1026.5, subdivision (b)(7) and former Welfare and Institutions Code section 6316.2, subdivision (e)." (Original italics.) Defendant then asserts: "Although Welfare and Institutions Code section 5305 provides that the LPS proceeding shall be conducted in accordance with 'the constitutional guarantees of due process of law....', it is significantly different from section 1026.5 and

former Welfare and Institutions Code section 6316.2, subdivision (e) because it does not provide that such ‘person[s] shall be entitled to the rights guaranteed under the federal and State Constitutions for criminal proceedings.’” (Ellipsis and bracketed material in original.)

As is apparent, defendant in quoting Welfare and Institutions Code section 5303 has omitted the portion of the statute that provides that hearings shall be conducted in accordance with “the procedures required under Section 13 of Article 1 of the Constitution of the State of California.” To claim that Welfare and Institutions Code section 5303 is substantially different from section Penal Code 1026.5(b)(7) and former Welfare and Institutions Code section 6316.2, subdivision (e) by disregarding the very language that makes them functionally equivalent is not a persuasive basis on which to attempt to distinguish *Bones* and *Burnick*.

Except for this modification, the opinion remains unchanged. This modification does not effect a change in the judgment.

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RICHLI  
J.

We concur:

McKINSTER  
Acting P.J.

GAUT  
J.